

REMARKS

Claims 1-9 are pending in the Application. Claims 1 and 9 are independent. Claims 1-7 and 9 have been amended. Applicant's note that no new subject matter has been added to any of the amended claims, and that amendments have been made to more clearly define the claimed invention in view of the Examiner's characterization of the prior art. As such, no additional or supplemental searching is necessary as a result of the amendments to the claims.

On page 2 of the Office Action, Claims 1-3, 6, 7, 8, and 9 are rejected under 35 U.S.C. §102(b) as being anticipated by Loper, U.S. Patent No. 212,242. In order to anticipate a claim, the cited reference must disclose each and every element of the claim.

Independent Claims 1 and 9, as amended, recite in part "a unitary bracket body defining a substantially planar first portion" and "a substantially planar second portion" rigidly affixed to the substantially planar first portion. The Loper '242 reference does not disclose a unitary bracket body defining the portions as stated in Applicant's claims, but rather, the Loper device includes numerous components joined together by pins, hinges and the like that allow the components of the device to move, rotate, and or pivot. Accordingly, not only does Loper fail to disclose a "unitary bracket body," or the rigid affixation of the first and second portions, but Loper explicitly states "when closed, the arms and a vertical bar pivoted to the outer end of each fold down into the slot, flush with the surface of the casting," (Col. 2:3-6). Loper specifically provides that the components of the device are movable from an open position to a closed position when not in use. This change from an open position to a closed position could not be achieved with a "unitary bracket body" having rigidly affixed portions as stated in Applicant's

Claims 1 and 9, and as such, to modify Loper to provide a “unitary bracket body” that would inhibit the movable/adjustable nature of the Loper device would improperly change the principal of operation as taught by Loper.

Moreover, Claims 1 and 9, as amended, recite “a substantially planar first portion” and a “substantially planar second portion,” “wherein the substantially planar second portion of the unitary bracket body is rigidly affixed to the substantially planar first portion at an orthogonal angle.” The Examiner indicates that Loper discloses a planar “contact portion” in its perforated ears d’, as illustrated in the Office Action on Page 3. The Examiner further opines on Page 2 that Loper discloses a “substantially planar support portion,” and “retaining portion.” Primarily, Applicant’s submit that the “support portion” and “retaining portion” of Loper as characterized by the Examiner are clearly not “substantially planar,” nor do they comprise any part of a “substantially planar second portion” as stated in Applicant’s Claims 1 and 9. Rather, the “support portion” and “retaining portion” indicated by the examiner are clearly illustrated as having a thick, squared cross-sectional shape, which is far from being “substantially planar.”

In addition, as evident from the Examiner’s annotated illustration in the Office Action, the “support portion” and “retaining portion” are not rigidly affixed to the “contact surface” in the Loper reference. In fact, the support and retaining portions are pivotably coupled to a recessed surface of the Loper apparatus. Should the Examiner characterize the portion of the Loper device where the support portion is coupled as part of a “first portion” as stated in Applicant’s Claims 1 and 9, then clearly, this first portion would not be “substantially planar” as stated in Applicant’s Claims 1 and 9. Further, as discussed above, the “support portion” and

“retaining portion” of Loper are both pivotable about the contact surface, and thus are not “rigidly affixed” to any structure whatsoever.

Accordingly, Loper fails to disclose or suggest “a unitary bracket body defining a substantially planar first portion” and “a substantially planar second portion, wherein the second portion defines a support portion; a retaining portion extending from the support portion, and a locking element extending from the retaining portion, wherein the substantially planar second portion of the unitary bracket body is rigidly affixed to the substantially planar first portion at an orthogonal angle,” as stated in Applicant’s amended Claims 1 and 9. Thus, the rejection is unsupported by the art, and a withdrawal is respectfully requested.

On page 3 of the Office Action, Claims 4 and 5 are rejected under 35 U.S.C. §103(a) as being unpatentable over Loper, ‘242. Claims 4 and 5 are believed to be allowable as they depend from amended independent Claim 1.

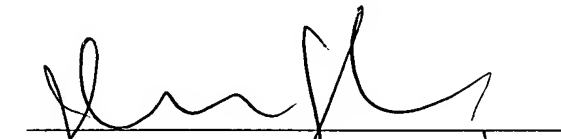
For all of the above reasons, the claim objections are believed to have been overcome placing Claims 1-9 in condition for allowance, and reconsideration and allowance thereof is respectfully requested.

Reply Under 37 C.F.R. §1.116  
Expedited Procedure - Group Art Unit : 3634  
Application No. 10/780,338  
Filed: 2/17/2004  
Attorney Docket No.: 1036-3CIP

The Examiner is encouraged to telephone the undersigned to discuss any matter that would expedite allowance of the present application.

Respectfully submitted,

Date: March 9, 2007



---

John Christopher  
Reg. No.: 37,596  
Attorney for Applicant(s)  
Christopher & Weisberg, P.A.  
200 East Las Olas Boulevard  
Suite 2040  
Fort Lauderdale, Florida 33301  
**Customer No. 31292**  
Tel: (954) 828-1488  
Fax: (954) 828-9122

71824